

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

RAMIRO NORIEGA, ) CV F 05-0543 AWI WMW HC  
Petitioner, ) FINDINGS AND  
v. ) RECOMMENDATIONS RE  
U. S. BUREAU OF PRISONS, ) DISMISSAL OF PETITION  
Respondent. )

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On March 24, 2006, the court entered an order directing Petitioner to complete the form for filing a Section 2241 habeas corpus petition and to file it with this court within thirty days. Petitioner has not filed the form or otherwise responded to the court's order.

Local Rule 11-110 provides that “failure of counsel or of a party to comply with these Local Rules or with any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court.” District courts have the

1 inherent power to control their dockets and “in the exercise of that power, they may impose  
2 sanctions including, where appropriate . . . dismissal of a case.” Thompson v. Housing  
3 Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice,  
4 based on a party’s failure to prosecute an action, failure to obey a court order, or failure to  
5 comply with local rules. See, e.g. Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)  
6 (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61  
7 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of  
8 complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to  
9 comply with local rule requiring pro se petitioners to keep court apprised of address); Malone  
10 v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply  
11 with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for  
12 failure to lack of prosecution and failure to comply with local rules). In determining whether  
13 to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply  
14 with local rules, the court must consider several factors: (1) the public’s interest in  
15 expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of  
16 prejudice to the defendants; (4) the public policy favoring disposition of cases on their  
17 merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;  
18 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61;  
19 Ghazali, 46 F.3d at 53.

20 In the instant case, the court finds that the public’s interest in expeditiously resolving  
21 this litigation and the court’s interest in managing the docket weigh in favor of dismissal, as  
22 this case has been pending since April 22, 2005. The third factor, risk of prejudice to  
23 respondent, also weighs in favor of dismissal, since a presumption of injury arises from the  
24 occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West, 542 F.2d  
25 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on  
26 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein.

1 Accordingly, the court HEREBY RECOMMENDS that this action be dismissed  
2 based on petitioner's failure to obey the court's order of March 26, 2006.

3 These Findings and Recommendations are submitted to the United States District  
4 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
5 thirty (30) days after being served with these Findings and Recommendations, petitioner may  
6 file written objections with the court. Such a document should be captioned "Objections to  
7 Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file  
8 objections within the specified time may waive the right to appeal the District Court's order.  
Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).IT IS SO ORDERED.

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**Dated: July 24, 2006**  
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/s/ William M. Wunderlich  
UNITED STATES MAGISTRATE JUDGE